

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 17, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:06OD-206

OAHU

Reconsideration of Rent under General Lease No. S-5149 to
Honolulu Academy of Arts, for Youth Education and Art Center
Purposes, Honolulu, Oahu, Tax Map Key: (1) 2-4-2:20.

APPLICANT:

Honolulu Academy of Arts, a Hawaii non-profit corporation.

LEGAL REFERENCE:

Section 171-43, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kulaokahua situated at Honolulu,
Oahu, identified by Tax Map Key: (1) 2-4-2:20 as shown on the
attached map labeled Exhibit A.

AREA:

2.688 acres, more or less.

ZONING:

State Land Use District:	Urban
City and County of Honolulu CZO:	BMX-3

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO ☒x

CHARACTER OF USE:

Solely for youth education and art center purposes, including but
not limited to classes, workshops, lectures and the display of arts.

LEASE TERM:

Fifty-five (55) years, commencing on December 1, 1986 and expiring on November 30, 2041.

ANNUAL RENT:

\$1,800.00 for the time period December 1, 1986 to November 30, 2006.

RENTAL REOPENINGS:

At the 20th, 30th, 40th, and 50th years of the lease term. Pursuant to page 2 of the subject lease, "The rental for any ensuing period shall be the fair market rental at the time of reopening."

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>x</u>	NO	<u> </u>
Registered business name confirmed:	YES	<u>x</u>	NO	<u> </u>
Applicant in good standing confirmed:	YES	<u>x</u>	NO	<u> </u>

BACKGROUND:

The Land Board at its meeting of May 9, 1986, under agenda Item F-9, approved the direct issuance of a 55 year lease to the Honolulu Academy of Arts for youth education purposes. General Lease No. S-5149 commenced December 1, 1986.

The former Linekona School Building is on the Hawaii State and National Historic Register. The property is located within the Thomas Square/Honolulu Academy of Arts Special District. The Lessee completed substantial building improvements in 1990 at a cost of \$5.7 million.

DISCUSSION:

According to General Lease No. S-5149 the "rental for any ensuing period shall be the fair market rental at the time of reopening."

A rent reopening scheduled for the 20th year, falls on December 1, 2006. Medusky & Co. was contracted to determine the fair market rental. The new fair market rental was determined to be \$160,000 per annum. A rental offer letter was tendered to the Lessee dated August 22, 2006. By letter dated September 22, 2006, Mr. James M. Cribley on behalf of the Honolulu Academy of Arts rejected the new lease rent and appointed Mr. James Hallstrom as its appraiser. Staff believes this Board may want to consider establishing the new rent at an amount at less than fair market value.

As background, the Board of Land and Natural Resources (Board) typically issues leases to private individuals and entities via

public auction. The new rent at reopening is established at fair market rental value by an appraisal. If the tenant or prospective tenant is an eleemosynary (charitable) organization, the Board may issue the lease, at a nominal rent, by direct negotiation. The statute providing the Board this authority is as follows:

§171-43 Lease of campsites or sites for youth athletic and/or educational activities. The board of land and natural resources may directly lease without recourse to public auction to any eleemosynary or religious organization campsites or sites for youth athletic and/or educational activities in a state park area or on lands under the control of the department of land and natural resources at nominal consideration. Where the lease is for campsites, the lease shall provide that the lessee shall permit the public to use the campsites at the rates approved by the board in its rules and regulations. Except as provided herein, the terms and conditions of sections 171-33, 171-35 and 171-36 shall apply. [L 1963, c 203, §1; am L 1965, c 239, §22; Supp, §103A-42.5; HRS §171-43; am L 1971, c 83, §1]

Therefore, when considering lease dispositions to eleemosynary (charitable) organizations or religious organizations, the Board may issue the lease by public auction at fair market rent, or by direct negotiation at an amount below fair market rental (i.e., nominal rent). On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the Minimum Rent for Lease be no less than \$480 per year. Land Division generally issues Leases at fair market rental value as determined by an appraiser or via public auction. Staff believes "nominal rent" under Section 171-43, Hawaii Revised Statutes ought to be anywhere between fair market rent, or lower, but not lower than the minimum rent of \$480 per year.

Staff has requested information on the Lessee's operations, services, program measurements, budget and funding and has attached whatever the Lessee has provided [Exhibit B].

The Lessee is in compliance with all lease terms and conditions. Rent of \$1,800 is paid up to November 30, 2006. Liability insurance expires on December 31, 2006. Lessee has posted a \$3,600 certificate of deposit. In the past two (2) years, only 1 Notice of Default letter was issued on January 21, 2005, due to expired liability insurance coverage. Lessee submitted a renewed insurance certificate on January 31, 2005.

RECOMMENDATION: That the Board

1. Amend General Lease No. S-5149, Honolulu Academy of Arts, Lessee, by (1) add 'Effective December 1, 2006 to November 30, 2016, the annual rental shall be \$480 per annum', subject to:

November 17, 2006

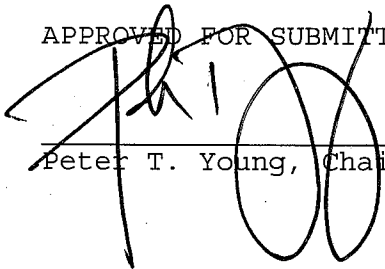
- A. The standard terms and conditions of the most current lease amendment document form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

APPLICATION AND QUALIFICATION QUESTIONNAIRE

(Non-Profit)

Write answers in the spaces provided. Attach additional sheets as necessary, clearly indicating the applicable section number.

Part I: General Information

1. Applicant's legal name: Honolulu Academy of Arts
Applicant's full mailing address: 900 South Beretania Street
Honolulu, Hawaii 96814
3. Name of contact person: Stephen Little
Contact person Phone No.: 808.532.8717 Fax No.: 808.532.8787
4. Applicant is interested in the following parcel:
Tax Map Key No.: (1) 2-4-2-20 Location: Honolulu, Hawaii
If Applicant is current lessee: General Lease No.: S-5419
5. When was Applicant incorporated? 1922
6. Attach the following:
 - A. Articles of Incorporation
 - B. Bylaws
 - C. List of the non-profit agency's Board of Directors
 - D. IRS 501 (c)(3) or (c)(1) status determination
 - E. Tax clearances from State of Hawaii and respective county Real Property Tax Office.
 - F. Audited financial statements for the last three years.
If not audited, explain why.
If Applicant is a new start-up, attach projected capital and operating budgets.
 - G. Any program material which describes eligibility requirements or other requirements to receive services

Part II: Qualification

7. Is Applicant registered to do business in Hawaii: Yes.
8. Has Applicant received tax-exempt status from the Internal Revenue Service?
Yes.

EXHIBIT "8"

9. Is Applicant licensed or accredited in accordance with federal, State or county statutes, rules, ordinances, to conduct the proposed activities? Yes.

List all such licenses and accreditations required: AMM Accreditation.

10. Is Applicant in default or otherwise not in good standing with any State department (e.g. POS agency, DCCA, DLNR, etc.)? No.

If yes, explain:

11. Has Applicant had a State of Hawaii lease, permit, license, easement or sale in fee cancelled within the last five years? No.

If yes, list:

<u>Doc. No.</u>	<u>Type of Agreement</u>	<u>Term of Agreement</u>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

12. Does Applicant have any policies which discriminate against anyone on the basis of race, creed, color, national origin, sex or physical handicap? No.

If yes, explain:

13. Has Applicant received funding from a federal, State, or county government agency, the Aloha United Way, and/or a major private foundation within the last three years? Please list all such contracts below:

<u>Agency</u>	<u>Contract Term</u>	<u>Yes/No</u> <u>Contract Amount</u>
SFCA	2006	\$ 65,452
SFCA	2005	\$ 51,899
SFCA	2004	\$ 97,975
Foundations	See attached listing of private foundation grants.	

14. If Applicant has not received funding from a federal, State or county government agency, the Aloha United Way and/or a major private foundation during the past three years, describe Applicant's qualifications to effectively perform the proposed services, including but not limited to, grants or subsidies received from non-major, private funders and/or staff or Board members who possess significant experience in Applicant's service field.

Part III: Program Activities and Persons to be Served

15. What activities will be conducted on the premises to be leased?

Studio art instruction programs for parents and pre-schoolers, children ages K-12, adults, Museum Experience, Art Enrichment and Art Enrichment for Special Education Programs in conjunction with public schools and the DOE, specially designed outreach classes to youth at risk and underserved youth, art classes for senior citizens, community-based art exhibitions, and artist workshops. The Lending Collection is available as a resource for teachers, students and community groups. The Art Center offers free meeting rooms available to community arts and education-related groups. Also see attached overview of the Academy Art Center at Linekona.

16. What are the specific objectives of these activities?

The objective of children's and adult art classes is to provide hands on studio art instruction in a variety of media and art education to citizens of all ages from pre-school to seniors, as is central to the Honolulu Academy of Arts' mission. The objective of the public school programs is to assist the DOE in providing quality art instruction to public school groups. In the Art To Go outreach programs for youth at risk, the objectives include providing alternative methods of learning as well as art instruction, problem solving skills, and building self-esteem. For the Lending Collection the objective is to offer support and learning materials to Hawaii's teachers and students. The exhibition program objective is to provide quality exhibitions and support to Hawaii's artists.

17. Describe the community need for and the public benefit derived from these activities.

As the largest private art school in Hawaii, the Academy Art Center has unique facilities including specially equipped ceramics, metal smithing, textile design, and printmaking studios. The Art Center offers affordable studio art classes to the community not available elsewhere on Oahu. Currently, with a very few exceptions, visual arts as well as the other creative arts have been systematically cut from the programs of Hawaii's public schools. In many cases the Academy Art Center classes for young people, the Art To Go outreach program for youth at risk, the Museum Experience Program, Art Enrichment Program, and the Art Enrichment for Special Education Program provide the only visual art instruction and art experience for Hawaii's public school students. The Art Center's visual arts programs for adults offer quality art instruction in specially equipped studios at affordable prices. The Lending Collection at the Art Center with its holdings of 13,000 objects, 9000 books, 50,000 slides and 10,000 prints is a major resource for educators, students and community groups. The Art Center hosts approximately 20 community based art exhibitions a year, which are open to the public free of charge. The Art Center's exhibition program held in two galleries spaces in the building provides much needed exhibition opportunities for Hawaii's artists.

18. Describe the targeted population for these activities by: 1) age group, 2) gender, 3) ethnic background, 4) income level, 5) geographic location of residence, 6) special needs/disability, and 7) other applicable characteristic(s).

Participants in the Academy Art Center's studio art education programs as well as the exhibition programs range in age from preschool to senior citizens and represent a true ethnic, geographic, and economic cross section of Hawaii residents as well as Hawaii visitors. Class participants come from every district of Oahu and the outer islands. In addition to specifically designed special education classes, adults and young people with special needs and physical disabilities are included in the regular adult and children's classes wherever possible.

19. Describe all eligibility requirements of clients to participate in the activities, e.g. age, income level, ethnic background, income level, disability, etc.

Anyone interested in participating in Art Center adult or children's is free to enroll. Enrollment is taken on a first come first served basis. Class listing brochures are distributed to Academy members, former students, and by request. Also information is available via the Academy's website. Information on public school programs such as the Museum Experience, Art Enrichment and Art Enrichment for Special Education Programs is distributed through the Department of Education channels. Those programs are open to school groups on a first come first served basis.

20. Do you require membership to participate in these activities? No.

If yes, list the requirements of becoming and remaining a member:

21. How many unduplicated persons will engage in the activities annually?

<u>Activity</u>	<u>Persons Per Year</u>
<u>Art Enrichment Program</u>	<u>2,391</u>
<u>Museum Experience Program</u>	<u>1,349</u>
<u>Art Enrichment Program for Special Education</u>	<u>510</u>
<u>Young People's Studio Art Classes</u>	<u>1,074</u>
<u>Adult Studio Art Classes</u>	<u>1,436</u>
<u>Lending Collection</u>	<u>600</u>
<u>Art To Go Community Outreach Program</u>	<u>1,000</u>
<u>Art Exhibitions program</u>	<u>27,615</u>
<u>Community Art Group Support</u>	<u>2,000</u>

22. Is State funding made available for the activities to be conducted on the leased premises? Yes.

If yes, by which State agency:

Department of Education and State Foundation on Culture and the Arts.

23. List all activities to be conducted on the leased premises which require payment of excise taxes, e.g. subleasing, sale of products or services. Include an estimate of annual gross revenues from each activity. None.

Part IV: Development of the Land

24. Describe the proposed site development plan for the property, indicating the location and size of buildings, parking areas, landscaped areas and related uses. Attach sketch of plan if available.

Site has been improved as per initial lease application.

25. What improvements to the land do you intend to make and at what cost?

No further improvements intended.

26. How will the improvements be funded? N/A.

27. Describe all environmental, land use and other permitting requirements which must be met to develop the land as proposed. N/A.

28. Will you be subleasing any portion of the property? If yes, describe the sublease uses: No.

Part V: Notarized Certification

I/We hereby certify that the statements and information contained in this Application and Questionnaire, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, I/we may be disqualified from receiving a lease or my/our lease may be canceled.

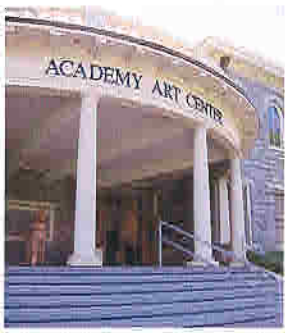
HONOLULU ACADEMY of ARTS
Applicant Name _____ Applicant Name _____
By: STEVEN LITH By: _____
Its DIRECTOR Its _____
Date: OCT - 4, 2006

Subscribed and sworn to before me this
day of Its October 4, 2006

[Signature]
Notary Public
County of: Honolulu
State of: Hawaii
My commission expires: April 9, 2010

1

EXHIBIT "B"



THE ACADEMY ART CENTER AT LINEKONA

A cross section of more than 59,610 adults and children in the community attended programs, classes and events at the Academy Art Center in 2005. These include:

Educational Enrichment Programs

Three programs at the Academy for DOE classes are comprised of gallery tours and studio art experiences at the Art Center:

- The Art Enrichment Program for fifth graders from the Honolulu District consists of a series of six lessons for each of sixteen schools. 2391 students served in 2005.
- The Museum Experience Program for DOE schools in the Windward, Leeward and Central Districts combines a gallery tour with painting sessions once a week for sixty students at a time. 1,349 students served in 2005.
- The Art Enrichment Program for Special Education serves the physically and/or intellectually challenged in both public and private schools with five lessons for each of ten sessions. 510 students served in 2005.



Young People's Studio Art Classes

The Art Center presents a complete schedule of studio art classes for young people grades K-12 in spring and fall semesters. Also offered is a six-week intensive summer school studio art program for preschool up to grade 12.

Total 2005 enrollment in young people's classes was 1,074.



Adult Studio Art Classes

The Art Center offers a full range of over 40 studio art classes for adults in fall, spring and summer semesters. Total enrollment in 2005 adult classes was 1,436.



The Lending Collection

With its contents of over 13,100 objects, 9000 books, 50,000 slides, 10,000 prints and 250 videos, the Lending Collection is a major resource for educators, students and community groups. Over 600 people used the Lending Collection in 2005.

Art To Go Community Outreach Program

The Art Center coordinates the Art To Go Outreach program bringing art instruction and art supplies to under served youth throughout the community in partnership with public service organizations and public schools. Programs are offered at community sites as well as the Art Center. Participating organizations include Parents and Children Together (PACT), Big Brothers and Big Sisters, Boys and Girls Clubs. Project sites include Kokua Kalihi Valley Homes Community Center, Kuhio Park Terrace Recreation Facility, Kahuku High School Alternative Learning Center at Kahana State Park and the Hawaii School for Deaf and Blind. Since its inception, Art To Go has served over 1000 youth at risk at more than 14 sites across Oahu.



Exhibitions Program

The Academy Art Center presents more than 20 exhibitions annually featuring works by Hawaii's contemporary artists, arts organizations, and Hawaii's young people. Recent exhibitions include Honolulu Printmakers' Annual Juried Exhibition; The Hawaii Quilt Guild Annual Exhibition; Commitment to Excellence: Japanese Chamber of Commerce Annual Juried Exhibition, and the Hawaii Craftsmen Annual Juried Exhibition. Admission to all Art Center exhibitions is free. Over 27,615 people attended Art Center exhibitions in 2005.



Support to Community Arts Groups

A total of 22 community groups used the Art Center for meetings and events in 2005. These included American Recorder Society, the Japanese Sword Society, Hawaii Stitchery and Fiber Arts Guild, Hawaii Bonsai Society, Hawaii Craftsmen, the Association of Hawaii Artists, the Garden Club, the Association of Chinese University Women, the Association for Hawaii Artists, the Hawaii Department of Education, University of Hawaii's College of Education, the Bead Society of Hawaii, the Hawaii Weaver's Hui, the Hawaii Literary Arts Council, Pacific Islanders in Communication, the Hawaii Screenwriters Guild, Temari, Honolulu Printmakers, and the Pacific Handcrafter's Guild.